Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Notice Regarding Carrier Current Systems,	)	
Including Broadband over Power Line	)	ET Docket No. 03-104
Systems	)	
	)	
Notice Regarding Amendment of Part 15	)	ET Docket No. 04-37
Regarding New Requirements and	)	
Measurement Guidelines for Access	)	
Broadband over Power Line Systems	)	
	)	

REPLY COMMENTS OF THE AMERICAN PUBLIC POWER ASSOCIATION

Introduction

Pursuant to Section 1.415 of the Commission's rules, 47 C.F.R. § 1.415, the American Public Power Association ("APPA"), hereby submits reply comments in response to the above referenced Notice of Proposed Rule Making ("NPRM").[1]

APPA is a national service organization that represents the interests of more than 2,000 publicly-owned, not-for-profit electric utilities located in all states except Hawaii. Currently, approximately three-fourths of APPA's members serve communities with less than 10,000 residents. Public power systems operated by municipalities, counties,

[1] *In the Matter of Carrier Current Systems, including Broadband Over Power Line Systems, Amendment of Part 15 Regarding New Requirements and measurement Guidelines for Access Broadband Power Line Systems*, Notice of Proposed Rule Making, ET Docket No. 03-104 and ET Docket No. 04-37; FCC 04-29 (2004) 69 FR 12612 ("BPL NPRM").

authorities, states and public utility districts provide electricity to approximately 43 million Americans.

Discussion

I. Proposed Notification Requirement – Creation of Publicly Accessible Database

In the BPL NPRM, the Commission proposes a notification requirement for Access BPL whereby a BPL operator would submit to a third party information on its system.[2] Specifically, the notice proposes that information on "the location of the installation, the type of modulation used, and the frequency of the bands of operation" be included in the notification.[3] APPA understands the Commission's desire to create a publicly accessible database that could help licensed spectrum users identify interference potentially caused by deployed BPL equipment and strongly supports the transparency of records and the sharing of information regarding the operation of utility assets. APPA members take the interference concerns of licensed spectrum holders very seriously and are willing to work with licensed spectrum holders to determine if their Access BPL equipment is causing potential interference.

We are concerned, however, that the notification rule as proposed would put sensitive utility infrastructure and customer data at risk and could impose an undue administrative and financial burden on smaller public power systems. If the Commission feels compelled to mandate Access BPL information reporting to a third party, we urge the Commission to adopt a notification rule that does not require the disclosure of sensitive information and imposes minimal administrative and financial burdens on utilities. As

[2] BPL NPRM at paragraph 43.
[3] Id.

APPA and other interested parties stated in their comments to the Commission on this NPRM, there are serious security implications of having detailed BPL equipment location information available on a publicly accessible database.[4] Access BPL will be used by public power systems not only to provide broadband services, but to monitor and control their electric infrastructure. Such information in the wrong hands could put the security of a utility's electric system at high risk.

In addition to the security issues raised by the Commission's proposed notification requirement, there are competitive concerns as well. The availability of detailed information on where a public power system has deployed Access BPL equipment would give incumbent broadband providers a competitive advantage over public power providers of BPL services. Neither DSL nor cable-modem service providers are required to disclose such sensitive deployment and consumer data to a third party for inclusion in a publicly accessible database. The Commission should not adopt a rule that could create privacy concerns for BPL subscribers and establish an unlevel playing field between BPL and incumbent broadband service providers.

a. The Commission should adopt a flexible notification requirement that protects sensitive utility information from public disclosure and ensures that licensed spectrum holders have access to sufficient data that would help them determine whether an Access BPL system is causing interference.

After reviewing the comments filed in this proceeding, APPA agrees with the approach recommended by Southern LINC, Southern Telecom, Inc., and Southern

[4] See Comments of United Power Line Council at p. 11; comments of Duke Energy Corporation at p. 9; and comments of Southern LINC, Southern Telecom, Inc., Southern Company Services Inc. ("Southern") at p. 8-9.

Company Services, Inc. ("Southern") regarding the Commission's proposed notification process. In its comments, Southern suggested that the Commission adopt a flexible notification requirement that would: "(1) permit each BPL operator to decide how much location information to include in such a database; (2) provide prompt notification to the public of interference cases that demonstrably cannot be due to Access BPL; (3) provide the public with up-to-date information on persons to contact if it is possible that Access BPL could be the source of harmful interference; and (4) shield from public view sensitive information related to electric system security and competitive information."[5] Southern then outlined the types of information a BPL operator could submit to the database such as zip code information for areas where BPL devices have been installed, "the range of frequencies over which the BPL system operates," and "a point of contact to whom interference complaints should be sent."[6] The Commission should adopt a flexible notification approach similar to what Southern recommended that protects sensitive utility information from public view, but provides sufficient information to help licensed spectrum users determine the potential cause of interference.

b. Should the Commission adopt a notification requirement for Access BPL providers, APPA supports the designation of UTC or its sister organization UPLC as the administrator of the notification database.

In their comments to the Commission on this proceeding, Duke Energy Corporation ("Duke")[7] and Current Technologies, LLC[8] suggested that the United Telecom Council ("UTC) could administer the national database. APPA concurs with Duke and Current

[5] Comments of Southern LINC, Southern Telecom, Inc., and Southern Company Services, Inc. ("Southern") at p. 10.
[6] Id at p. 11.
[7] Comments of Duke Energy Corporation ("Duke") at p. 9.
[8] Comments of Current Technologies, LLC at p. 22.

Technologies that UTC is an organization qualified to operate and maintain a national Access BPL database. As stated in the comments filed by the United Power Line Council ("UPLC"), UTC's sister organization, UPLC has "the resources and experience from its relationship with the UTC to serve as the database administrator" and has offered its services as "the appropriate industry-operated entity to receive notifications and maintain the Access BPL database."[9] Should the Commission adopt a notification requirement for Access BPL providers, APPA supports the designation of UTC or its sister organization UPLC as the administrator of the database.

II. Existing Part 15 radiation limits for Access BPL systems are sufficient for limiting harmful interference to licensed spectrum holders.

In paragraph 38 of the NPRM, the Commission proposes "to maintain the existing Part 15 radiated emission limits for Access BPL systems and devices."[10] APPA supports the Commission's recommendations and reiterates its belief that the application of Part 15 rules is more than sufficient to limit harmful interference. The experience of the City of Manassas, Virginia, during its pilot project and subsequent commercial deployment of BPL services, demonstrates that utilities operating under existing Part 15 emission limits can provide Access BPL without causing harmful interference to existing licensed spectrum users. In the two years since Manassas begun its pilot project, its system has not been found to cause any harmful interference.

In addition, the City of Manassas, being extremely sensitive to the concerns of amateur radio operators and others, has worked with interested parties, such as the Ole Virginia Hams Amateur Radio Club, to determine whether Manassas' Access BPL

[9] Comments of UPLC at p. 12-13.
[10] See BPL NPRM at paragraph 38.

system causes harmful interference.[11] As the City reported in an April 15, 2004, letter to James R. Burtle, Chief of the Federal Communications Commission's Experimental Licensing Branch, the City has opened an extensive dialogue with local ham radio operators. In addition to hosting several meetings with members of the Ole Virginia Hams Amateur Radio Club, the City has taken a small group of members out to specific BPL installation sites to measure interference. On one such trip made on April 6, 2004, the City took a group of amateur radio operators to an operating overhead BPL installation site on Weir St.[12] Using their own monitoring equipment, the club members were unable "to identify any interference in the amateur bands being caused by BPL installation."[13] Since that meeting, the City of Manassas has continued its open dialogue with amateur radio operators and plans to conduct additional field tests with the Ole Virginia Ham Club.[14] It is clear from the experience of the City of Manassas, Virginia, that existing Part 15 radiation limits are adequate to protect licensed spectrum holders from harmful interference by Access BPL systems and devices.

III. The Commission should require that no entity may install, maintain, operate, or own Access BPL equipment without the permission of the electric utility that owns the distribution lines on which Access BPL equipment is installed.

In its comments regarding the definition of Access BPL, Southern raised "safety and reliability concerns associated with attaching Access BPL devices to utility assets used to

[11] See letter attached to comments filed by City of Manassas, Virginia.
[12] Id.
[13] Id.
[14] Id.

provide regulated utility service."[15] Specifically, Southern recommended that the Commission, at a minimum, require that Access BPL equipment, especially "equipment [that is] coupled directly onto energized power lines or any attachments made in the electric supply space" can only be installed by "utility crews and/or utility approved contractors."[16] APPA urges the Commission to accept this recommendation with a slight modification. We suggest that Commission require all Access BPL equipment be installed and maintained by the electric utility that owns the distribution lines on which such Access BPL equipment is installed, unless the electric utility consents to another arrangement. No outside third party should be allowed to install or maintain Access BPL devices unless the utility specifically contracts with a third party to do such installation and maintenance. Utilities should have the sole authority to determine what entities can install and maintain Access BPL devices on their electric lines.

Further, many distribution lines of municipal utilities are financed with tax-exempt bonds. Internal Revenue Service regulations limit the amount of use and benefit that municipal facilities, such as a distribution lines, financed with tax-exempt bonds can provide to private third parties. Rules that would require municipal utilities to make BPL available to private parties can jeopardize such financing and make the bonds taxable.

Summary

BPL is a technology that can permit public power electric utilities to provide affordable facilities-based, broadband services to rural and underserved communities that presently do not have such service or are served by a either a monopoly or duopoly, as well as to enhance their capability to monitor their electric distribution systems. APPA

[15] Comments of Southern at p. 14.
[16] Id.

urges the Commission to adopt rules that are flexible enough to accommodate this newly developed technology and the public power utilities that are in the position to employ it.

Respectfully submitted,

American Public Power Association
2301 M Street, NW
Washington, DC 20037

By: Desmarie Mosco, Government Relations Representative

Additional contact: Joe Nipper, Senior Vice President, Government Relations

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